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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,877	07/23/2003	Dennis S. Fernandez	FERN-P014	1743

7590 01/17/2006
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EXAMINER

KLEBE, GERALD B

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/626,877	Applicant(s) FERNANDEZ, DENNIS S.	
	Examiner Gerald B. Klebe	Art Unit 3618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet, Note 1.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: none.
 Claim(s) objected to: none.
 Claim(s) rejected: 1-20.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet, Note 2.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.

G B Klebe
 11 January 2006

Christopher P. Ellis
 CHRISTOPHER P. ELLIS
 SUPERVISORY PATENT EXAMINER
 TECHNOLOGY CENTER 3618

Continuation of 5. Applicant's reply has overcome the following rejection(s): cancellation of claim 21 moots the rejection of the claim under 35USC102(e).

Continuation of 11. does NOT place the application in condition for allowance because: applicant's arguments are not persuasive; refer to the attached Continuation sheet in further explanation.

Art Unit: 3618

Case Serial Number: 10/626877

Advisory Action in Response to Applicant's Amendment After Final filed 12/29/2005

CONTINUATION SHEET

Note 1: Applicant's cancellation of claim 21 moots the rejection of this claim as found in the Office Action mailed 11/28/2005.

Note 2: Applicant's arguments in support of a request for reconsideration are unpersuasive for the following reasons:

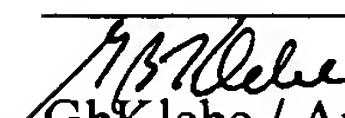
a. Applicant argues that the rejection of claims 1-2, 4-11, 13 and 15-20 under 35 USC 102(e) based on the reference to Cramer (US 2003/0230443) should be reconsidered because Cramer neither teaches nor suggests all claim limitations. Applicant particularly cites the limitation of claim 1: "...wherein the electronic controller couples electrical power from the fuel cell module adaptively to the telematic appliance, a software being run by the controller to to manage the power adaptively by redistributing such power reactively or proactively according to a determined load ratio, or power usage proportion."

i) Applicant argues that para [0259] of Cramer does not provide evidence that the controller of Cramer provide power to any telematic appliance as required by the claim limitation.

This argument is not persuasive since the rejection does not make use of this paragraph of Cramer for disclosure of the limitation of the claim but, instead, relies upon Cramer's disclosure in Figs D8 and D10, item 318, the associated text of para [0344] and Fig CR3 which show that the fuel cell module (item 110) provides power to the 42 volt bus (item 139) which bus provides the source power for the telematics control, further referring to Fig D10, item 322 of the reference (for details, see Office Action mailed 11/28/2005, paragraph 4 (re: claim 1)).

ii) Applicant argues that paras [0308; 0311], [0332;0335], [0333] of Cramer do not provide evidence that Cramer's ring main power supply adaptively controls software for redistributing power according to a determined load ratio or power usage proportion, as required by Applicant's claim 1 limitation.

This argument is not persuasive because the rejection of this limitation in the Office Action relies upon Cramer's disclosure taken in the context of Fig D10 which shows the controller (item 320) adaptively managing power via a Computer Area Network (item 324) which inherently [Examiner's emphasis added herein in further explanation] comprise software that is responsive to various criteria needed to manage power in the vehicle as disclosed in paras [0311],[0312],[0317],[0318],[0332],[0333], and [0338] of Cramer (for details, see Office Action mailed 11/28/2005, paragraph 4, subparts (re: claim 1) and (re: claim 13)).


GbKlebe / Art Unit 3618 / 11 January 2006